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August 15, 2013

**MITIGATED NEGATIVE DECLARATION**

**PROJECT NAME:** BAGLEY L-GRADE AND IMPROVEMENT PLAN

**RECORD ID:** PDS2012-2700-15684, PDS2012-2240-17341

**This Document is Considered Draft until it is Adopted by the Appropriate  
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
  - b. Environmental Analysis Form
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body, including this Mitigated Negative Declaration, that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

**BIO#1-OFF-SITE MITIGATION: [PDS, PCC] [BP, GP, CP, UO] [DPR, GPM] [PDS,FEE X2] INTENT:** In order to mitigate for the impacts to non-native grassland and chamise chaparral, which are sensitive biological resources pursuant to [Biological Mitigation Ordinance \(BMO\)](#), off-site mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of 5.5 acres of tier III or higher tier habitat, located within a BRCA in the MSCP as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Wildlife. The following evidence of purchase shall include the following information to be provided by the mitigation bank:
  1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
  2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
  3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
  4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in within a BRCA in the MSCP as indicated below:
  1. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS].
  2. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
  3. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
  4. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.

5. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

**DOCUMENTATION:** The applicant shall purchase the off-site mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and an application for the RMP shall be submitted to the [PDS, ZONING].

**TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, PPD] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

**BIO#2-OFF-SITE MITIGATION:** [PDS, PCC] [BP, GP, CP, UO] [DPR, GPM] [PDS,FEE X2] **INTENT:** In order to mitigate for the impacts to Diegan coastal sage scrub, which is a sensitive biological resource pursuant to [Biological Mitigation Ordinance \(BMO\)](#), off-site mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of 2.0 acres of tier II or higher tier habitat, located within a BRCA in the MSCP as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Wildlife. The following evidence of purchase shall include the following information to be provided by the mitigation bank:
  1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
  2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
  3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.

4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in within a BRCA in the MSCP as indicated below:
  1. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS].
  2. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
  3. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
  4. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
  5. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

**DOCUMENTATION:** The applicant shall purchase the off-site mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and an application for the RMP shall be submitted to the [PDS, ZONING].

**TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an

application for an RMP, and [PDS, PPD] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

The following Grading and or Improvement Plan Notes shall be placed on the Preliminary Grading Plan and made conditions of the issuance of said permits. An email or disc will be provided with an electronic copy of the grading plan note language.

**PRE-CONSTRUCTION MEETING:** *(Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances.)*

**PALEO#1–PALEONTOLOGICAL MONITORING [PDS, FEE X2]**

**INTENT:** In order to comply with Mitigation Monitoring and Reporting Program pursuant to PDS2012-2700-15684, PDS2012-2240-17341, a Paleontological Resource Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The County approved Project Paleontologist, and [PDS PCC], shall attend the pre-construction meeting with the contractors to explain and coordinate the requirements of the grading monitoring program. The Project Paleontologist shall monitor during the original cutting of previously undisturbed deposits for the project, both on and off site, the Qualified Paleontological Resources Monitor shall be on-site to monitor as determined necessary by the Qualified Paleontologist. The grading monitoring program shall comply with the [County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Paleontological Resources](#).

**DOCUMENTATION:** The applicant shall have the contracted Project Paleontologist attend the preconstruction meeting to explain the monitoring requirements. **TIMING:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** The [DPW, PDCI] shall invite the [PDS, PCC] to the preconstruction conference to coordinate the Paleontological Resource Monitoring requirements of this condition. The [PDS, PCC] shall attend the preconstruction conference and confirm the attendance of the approved Project Paleontologist.

**DURING CONTRUCTION:** *(The following actions shall occur throughout the duration of the grading construction).*

**PALEO#2–PALEONTOLOGICAL MONITORING [PC] [PDS, FEE X2]**

**INTENT:** In order to comply with Mitigation Monitoring and Reporting Program pursuant to PDS2012-2700-15684, PDS2012-2240-17341, and the [County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Paleontological Resources](#), a Grading Monitoring Program shall be implemented.

**DESCRIPTION OF REQUIREMENT:** The Project Paleontologist shall monitor during the original cutting of previously undisturbed deposits for the project, both on and off site, the Qualified Paleontological Resources Monitor shall be on-site to monitor as determined necessary by the Qualified Paleontologist. The grading monitoring program shall comply with the following requirements during grading:

- a. If paleontological resources are encountered during grading/excavation, the following shall be completed:
  1. The Qualified Paleontological Resources Monitor shall have the authority to direct, divert, or halt any grading/excavation activity until such time that the sensitivity of the resource can be determined and the appropriate salvage implemented.
  2. The Qualified Monitor shall immediately contact the Qualified Paleontologist.
  3. The Qualified Paleontologist shall contact the [PDS, PCC] immediately.
  4. The Qualified Paleontologist shall determine if the discovered resource is significant. If it is not significant, grading/excavation shall resume.”
- b. If the paleontological resource is significant or potentially significant, the Qualified Paleontologist or Qualified Paleontological Resources Monitor, under the supervision of the Qualified Paleontologist, shall complete the following tasks in the field:
  1. Salvage unearthed fossil remains, including simple excavation of exposed specimens or, if necessary, plaster-jacketing of large and/or fragile specimens or more elaborate quarry excavations of richly fossiliferous deposits;
  2. Record stratigraphic and geologic data to provide a context for the recovered fossil remains, typically including a detailed description of all paleontological localities within the project site, as well as the lithology of fossil-bearing strata within the measured stratigraphic section, if feasible, and photographic documentation of the geologic setting; and
  3. Transport the collected specimens to a laboratory for processing (cleaning, curation, cataloging, etc.).

**DOCUMENTATION:** The applicant shall implement the grading monitoring program pursuant to this condition. **TIMING:** The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDCI] shall make sure that the Project Archeologist is on-site performing the Monitoring duties of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the Project Paleontologist or applicant fails to comply with this condition.

**ROUGH GRADING:** *(Prior to rough grading approval and issuance of any building permit).*

### **PALEO#3–PALEONTOLOGICAL MONITORING [PDS, FEE]**

**INTENT:** In order to comply with the adopted Mitigation Monitoring and Reporting Program (MMRP) pursuant to PDS2012-2700-15684, PDS2012-2240-17341, and the [County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Paleontological Resources](#), a Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Paleontologist shall prepare one of the following letters upon completion of the grading activities that require monitoring:

- a. If **no** paleontological resources were discovered, submit a "No Fossils Found" letter from the grading contractor to the [PDS, PCC] stating that the monitoring has been completed and that no fossils were discovered, and including the names and signatures from the fossil monitors. The letter shall be in the format of Attachment E of the County of San Diego Guidelines for Determining Significance for Paleontological Resources.
- b. If Paleontological **resources were encountered** during grading, a letter shall be prepared stating that the field grading monitoring activities have been completed, and that resources have been encountered. The letter shall detail the anticipated time schedule for completion of the curation phase of the monitoring.

**DOCUMENTATION:** The applicant shall submit the letter report to the [PDS, PCC] for review and approval. **TIMING:** Upon completion of all grading activities, and prior to Rough Grading final Inspection ([Grading Ordinance SEC 87.421.a.2](#)), the letter report shall be completed. **MONITORING:** The [PDS, PCC] shall review the final negative letter report or field monitoring memo for compliance with the project MMRP, and inform [DPW, PDC] that the requirement is completed.

**FINAL GRADING RELEASE:** *(Prior to any occupancy, final grading release, or use of the premises in reliance of this permit).*

#### **PALEO#4-PALEONTOLOGICAL MONITORING [PDS, FEE]**

**INTENT:** In order to comply with the adopted Mitigation Monitoring and Reporting Program (MMRP) pursuant to PDS2012-2700-15684, PDS2012-2240-17341, and the [County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Paleontological Resources](#), a Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Paleontologist shall prepare a final report that documents the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program if resources were encountered during grading. The report shall include the following:

- a. If paleontological resources were discovered, the Following tasks shall be completed by or under the supervision of the Project Paleontologist:
  1. Prepare collected fossil remains for curation, to include cleaning the fossils by removing the enclosing rock material, stabilizing fragile specimens using glues and other hardeners, if necessary, and repairing broken specimens;
  2. Curate, catalog and identify all fossil remains to the lowest taxon possible, inventory specimens, assigning catalog numbers, and enter the appropriate specimen and locality data into a collection database;
  3. Submit a detailed report prepared by the Project Paleontologist in the format provided in Appendix D of the County of San Diego's Guidelines for Determining Significance for Paleontological Resources and identifying which accredited institution has agreed to accept the curated fossils. Submit TWO hard copies of the final Paleontological Resources Mitigation Report to the Director of PDS for final approval of the mitigation, and submit an electronic copy of the complete report in Microsoft Word on a CD. In addition, submit one copy of the report to the San Diego Natural History Museum and one copy to the institution that received the fossils.



4. Transfer the cataloged fossil remains and copies of relevant field notes, maps, stratigraphic sections, and photographs to an accredited institution (museum or university) in California that maintains paleontological collections for archival storage and/or display, and submit Proof of Transfer of Paleontological Resources, in the form of a letter, from the director of the paleontology department of the accredited institution to the Director of PDS verifying that the curated fossils from the project site have been received by the institution.”
- b. If no resources were discovered, a brief letter to that effect and stating that the grading monitoring activities have been completed shall be sent to the Director of PDS by the Project Paleontologist.

**DOCUMENTATION:** The applicant shall submit the letter report to the [PDS, PCC] for review and approval. **TIMING:** Prior to the occupancy of any structure or use of the premises in reliance of PDS2012-2700-15684, and prior to Final Grading Release ([Grading Ordinance Sec. 87.421.a.3](#)), the final report shall be completed.

**MONITORING:** The [PDS, PCC] shall review the final report for compliance with the project MMRP, and inform [DPW, PDCI] that the requirement is completed.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

None.

**ADOPTION STATEMENT:** This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

Director Planning and Development Services

on \_\_\_\_\_

KENNETH J. BRAZELL, Project Manager  
Project Planning Division

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